

ESTTA Tracking number: **ESTTA401072**

Filing date: **04/01/2011**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

### Opposer Information

Name	Jet's America, Inc.
Granted to Date of previous extension	04/13/2011
Address	37501 Mound Road Sterling Heights, MI 48310 UNITED STATES

Attorney information	Barbara L. Mandell Kohn & Associates, PLLC 30500 Northwestern Highway Suite 410 Farmington Hills, MI 48334 UNITED STATES mail@kohnandassociates.com, b.mandell@kohnandassociates.com
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### Applicant Information

Application No	77707449	Publication date	12/14/2010
Opposition Filing Date	04/01/2011	Opposition Period Ends	04/13/2011
Applicant	Sitos Srl via Zeni 8 Rovereto (Tn), 38068 ITALY		

### Goods/Services Affected by Opposition

Class 030. All goods and services in the class are opposed, namely: pizza
Class 043. All goods and services in the class are opposed, namely: Food preparation services

### Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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### Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	2150029	Application Date	11/28/1995
Registration Date	04/14/1998	Foreign Priority Date	NONE
Word Mark	JET'S		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 1982/07/28 First Use In Commerce: 1995/10/23 [ hats, shirts and sweatshirts ] Class 029. First use: First Use: 1982/07/28 First Use In Commerce: 1995/10/23 garden salads Class 030. First use: First Use: 1982/07/28 First Use In Commerce: 1995/10/23 food products, namely, pizza, submarine sandwiches, calzones and bread

U.S. Registration No.	2133757	Application Date	04/01/1996
Registration Date	02/03/1998	Foreign Priority Date	NONE

Word Mark	JET'S PIZZA
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Design Mark	
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Description of Mark	NONE
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Goods/Services	Class 025. First use: First Use: 1982/07/28 First Use In Commerce: 1995/10/23 hats, shirts and sweatshirts Class 029. First use: First Use: 1982/07/28 First Use In Commerce: 1995/10/23 garden salads Class 030. First use: First Use: 1982/07/28 First Use In Commerce: 1995/10/23 food products, namely, pizza, submarine sandwiches, calzones and bread
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U.S. Registration No.	2712642	Application Date	02/16/2001
Registration Date	05/06/2003	Foreign Priority Date	NONE


Word Mark	JET'S PIZZA
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Design Mark	
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Description of	NONE
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Mark	
Goods/Services	<p>Class 025. First use: First Use: 1997/06/00 First Use In Commerce: 1997/06/00 Hats, shirts and sweat shirts</p> <p>Class 029. First use: First Use: 1997/06/00 First Use In Commerce: 1997/06/00 Salads, namely, antipasto, garden, tuna</p> <p>Class 030. First use: First Use: 1997/06/00 First Use In Commerce: 1997/06/00 Food products, namely, pizza, submarine sandwiches, calzones and bread</p>

U.S. Registration No.	3802330	Application Date	09/04/2009
Registration Date	06/15/2010	Foreign Priority Date	NONE
Word Mark	LET'S GET JET'S		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 025. First use: First Use: 2009/08/17 First Use In Commerce: 2009/08/17 Hats, sweatshirts, and t-shirts</p> <p>Class 030. First use: First Use: 2009/08/17 First Use In Commerce: 2009/08/17 Pizza, Calzones, Bread and Submarine sandwiches</p> <p>Class 043. First use: First Use: 2009/08/17 First Use In Commerce: 2009/08/17 Carry-out restaurants</p>		


U.S. Registration No.	3889969	Application Date	04/27/2010
Registration Date	12/14/2010	Foreign Priority Date	NONE
Word Mark	JET'S PIZZA		
Design Mark			
Description of Mark	NONE		

Goods/Services	Class 029. First use: First Use: 1982/07/28 First Use In Commerce: 1982/07/28 Antipasto salads; Garden salads; Tuna fish Class 030. First use: First Use: 1982/07/28 First Use In Commerce: 1982/07/28 Bread; Calzones; Pizza; Sandwiches, namely, submarine sandwiches Class 043. First use: First Use: 1982/07/28 First Use In Commerce: 1982/07/28 Carry-out restaurants; Restaurants featuring home delivery; Take-out restaurant services
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U.S. Registration No.	3934048	Application Date	05/17/2010
Registration Date	03/22/2011	Foreign Priority Date	NONE
Word Mark	JET'S		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 043. First use: First Use: 1982/07/28 First Use In Commerce: 1982/07/28 Carry-out restaurants; Restaurants featuring home delivery; Take-out restaurant services		

U.S. Registration No.	3890313	Application Date	05/28/2010
Registration Date	12/14/2010	Foreign Priority Date	NONE
Word Mark	JET'S PIZZA		
Design Mark			
Description of Mark	The mark consists of a mustached man with a jet pack on his back. He is holding a pizza containing red pepperoni, white mushrooms and green peppers aloft in his left hand as he ascends northeast; his pants and hat are green, his belt and jet pack are black and his shirt is red with "JET'S PIZZA" in white letters.		
Goods/Services	Class 025. First use: First Use: 2006/11/20 First Use In Commerce: 2006/11/20		

	<p>Wearable garments and clothing, namely, shirts</p> <p>Class 029. First use: First Use: 2006/11/20 First Use In Commerce: 2006/11/20 Antipasto salads; Garden salads; Vegetable salads</p> <p>Class 030. First use: First Use: 2006/11/20 First Use In Commerce: 2006/11/20 Pizza; Pizza dough; Sandwiches, namely, cold submarine sandwiches</p> <p>Class 043. First use: First Use: 2006/11/20 First Use In Commerce: 2006/11/20 Carry-out restaurants; Restaurants featuring home delivery; Take-out restaurant services</p>
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U.S. Registration No.	3890314	Application Date	05/28/2010
Registration Date	12/14/2010	Foreign Priority Date	NONE
Word Mark	JET'S PIZZA JET'S PIZZA		
Design Mark			
Description of Mark	<p>The mark consists of a mustached jet man powered by a jet pack on his back holding a pizza containing red pepperoni, white mushrooms and green peppers aloft in his left hand as he ascends northeast; his pants and hat are green, his belt and jet pack are black and his shirt is red with "JET'S PIZZA" in white letters; the stylized wording "JET'S PIZZA" also appears on the right of the jet man with "JET'S" appearing in the colors green, white and red in descending order, and the word "PIZZA" in black.</p>		
Goods/Services	<p>Class 025. First use: First Use: 2006/11/20 First Use In Commerce: 2006/11/20 Wearable garments and clothing, namely, shirts</p> <p>Class 029. First use: First Use: 2006/11/20 First Use In Commerce: 2006/11/20 Antipasto salads; Garden salads; Vegetable salads</p> <p>Class 030. First use: First Use: 2006/11/20 First Use In Commerce: 2006/11/20 Calzones; Pizza; Pizza dough; Sandwiches, namely, cold submarine sandwiches</p> <p>Class 043. First use: First Use: 2006/11/20 First Use In Commerce: 2006/11/20 Carry-out restaurants; Restaurants featuring home delivery; Take-out restaurant services</p>		

Related Proceedings	Opp. No. 91195976; Opp. No. 91195977; Ser. No. 77707504
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Attachments	<p>75081861#TMSN.gif ( 1 page )( bytes )</p> <p>76211800#TMSN.gif ( 1 page )( bytes )</p> <p>77820787#TMSN.jpeg ( 1 page )( bytes )</p> <p>85023882#TMSN.jpeg ( 1 page )( bytes )</p> <p>85040061#TMSN.jpeg ( 1 page )( bytes )</p> <p>85050126#TMSN.jpeg ( 1 page )( bytes )</p>
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	85050151#TMSN.jpeg ( 1 page )( bytes ) JET'S NOTICE OF OPPOSITION TO LET'S PIZZA '449.pdf ( 4 pages )(38328 bytes )
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### **Certificate of Service**

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by USPS Express Mail Post Office to Addressee on this date.

Signature	/Barbara L. Mandell/
Name	Barbara L. Mandell
Date	04/01/2011

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Serial No.: 77/707,449

Filed: April 6, 2009

Published: December 14, 2010

<b>JET’S AMERICA, INC.</b>	)	<b>Opposition No.</b> _____
	)	<b>Mark: LET’S PIZZA</b>
	)	
	)	
<b>Opposer,</b>	)	
	)	
<b>v.</b>	)	
	)	
	)	
<b>SITOS SRL,</b>	)	
	)	
<b>Applicant.</b>	)	
	)	

**NOTICE OF OPPOSITION**

Jet’s America, Inc. (hereafter, “Opposer” or “Jet’s Pizza”), a Michigan corporation located and doing business at 37501 Mound Road, Sterling Heights, Michigan, believes it will be damaged by registration of the mark shown in Serial Number 77/707,449 (“the ‘449 Application”) and hereby opposes same. The ‘449 Application was filed under filing basis 1B on April 6, 2009, and published for opposition in the Official Gazette on December 14, 2010. Jet’s Pizza’s Opposition is based on the following grounds.

1. Opposer began using the trademark JET’S PIZZA in connection with its pizzerias on July 28, 1982. Since that time, both Jet’s Pizza and its franchisees around the

country have used JET'S PIZZA and other marks containing the formative "JETS" continuously and extensively in interstate commerce.

2. Opposer is the owner of numerous federal registrations for its family of JET'S trademarks. The following are most relevant to this Opposition:

<b>Mark</b>	<b>Registration No.</b>	<b>Registration Date</b>	<b>International Class</b>
JET'S	2,150,029	4/19/1998	25, 29, 30
JET'S PIZZA & Design	2,133,757	2/3/1998	25, 30, 43
JET'S PIZZA (Stylized)	2,712,642	5/6/2003	25, 29, 30
LET'S GET JET'S	3,802,330	6/15/2010	25, 30, 43
JET'S PIZZA	3,889,969	12/14/2010	29, 30, 43
JET'S	3,934,048	3/22/2011	43
JET'S PIZZA (Logo)	3,890,313	12/14/2010	25, 29, 30, 43
JET'S PIZZA (Logo & Stylized)	3,890,314	12/14/2010	25, 29, 30, 43

3. These registrations are in full force and effect, unrevoked and uncanceled. In addition, Registration Nos. 2,150,029; 2,133,757; and 2,712,642 have become incontestable and, thus, they constitute conclusive evidence of the validity of those marks, the registration of the marks, Opposer's ownership of the marks and Opposer's exclusive right to use the marks in commerce. 15 U.S.C. §1115(a) and (b).



4. Upon information and belief, Applicant is a corporation based in Italy, located at via Zeni 8 Rovereto (Tn) ITALY 38068.

5. On April 6, 2009, Applicant filed the '449 Application based on an intent to use the stylized mark LET'S PIZZA in the United States for the following goods and services: vending machines, pizza, vending machine services and food preparation services. The application was divided and the application for vending machine and vending machine services (Classes 9 and 35, respectively) is currently proceeding under separate Serial Number 77/978,643, which is TTAB Opp. No. 91195976. The present '449 Application is proceeding under Classes 30 and 43, for pizza and food preparation services, respectively.

6. Registration of the '449 Application should be denied on the basis that the mark sought to be registered, **LET'S PIZZA**, is confusingly similar to Opposer's prior use of and prior registrations for **JET'S®**, **JET'S PIZZA®** and **LET'S GET JET'S®**.

7. The use of the **LET'S PIZZA** mark by Applicant is likely to cause confusion or mistake in the minds of the public and to lead the public and prospective purchasers to believe that Applicant's goods and services are those of Opposer or are endorsed, sponsored, or otherwise affiliated or connected with Opposer, or that Opposer's goods and services are associated with Applicant, all to the damage and injury of the purchasing public and to the damage and injury of Opposer. Further, the mark in Applicant's '449 Application cannot be registered consistent with Section 2(d) of the Lanham Act, 15 U.S.C. § 1052 (d).

**WHEREFORE**, Jet's America believes that it would be damaged by registration of the mark shown in Applicant's '449 Application and prays that Application

Serial No. 77/707,449 be rejected, that no registration be issued thereon to Applicant, and that this Opposition be sustained in favor of Jet's America.

Dated: April 1, 2011

Respectfully submitted,

/Kenneth I. Kohn, Ph.D  
Kenneth I Kohn, Ph.D.  
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**Attorneys for Jet's America, Inc.**

CERTIFICATE OF SERVICE

I, Barbara L. Mandell, do hereby certify that I on this 1st day of April, 2011, I caused to be delivered by U.S. Express mail, postage prepaid, a true and correct copy of the above document to the following counsel of record:

Sean Dwyer  
Counsel to Sitos Srl  
Blank Rome LLP  
One Logan Square  
130 North 18th Street  
Philadelphia PA 19103-6998

and to be delivered by UPS, postage prepaid, a true and correct copy of the above to the Applicant:

Sitos Srl  
via Zeni 8  
Rovereto (Tn) 38068  
Italy

s/Barbara L. Mandell  
Barbara L. Mandell